

Membership Balance Plan
Inland Waterways Users Board

Agency: Department of Defense (DoD)

1. Authority: The Secretary of Defense, pursuant to 33 U.S.C. § 2251(a) and in accordance with the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended) and 41 C.F.R. § 102-3.50(a), established the Inland Waterways Users Board (“the Board”).
2. Mission/Function: The Board, pursuant to 33 U.S.C. §§ 2251(b), (d), and (e), shall provide independent advice and recommendations to the Secretary of Defense and the Department of the Army, as well as to Congress as required by statute, on matters relating to construction and rehabilitation priorities and spending levels on the commercial navigation features and components of the U.S. inland waterways and inland harbors.
3. Points of View: Pursuant to 33 U.S.C. § 2251(f)(2), the members of the Board shall be appointed as representative members. The members shall be selected so as to represent various regions of the country and a spectrum of the primary users and shippers utilizing the inland and intracoastal waterways for commercial purposes. Due consideration shall be given to assure a balance among the members based on the ton-mile shipments of the various categories of commodities shipped on inland waterways. In accordance with the Board’s authorization, members will represent a balance of primary user and shippers on the inland and intra-coastal waterways, including at least one representative of each of the following: Upper Mississippi River; Lower Mississippi River Ohio River; Gulf Intra-coastal Waterway – West; Gulf Intra-coastal Waterway – East; and the Columbia-Snake River System.

In addition to the primary users and shippers invited by the Secretary of Defense, the Secretary of the Army shall designate, and the Secretaries of Agriculture, Transportation, and Commerce may each designate a representative to act as an observer of the Board. These observers, who have no voting rights, shall be full-time or permanent part-time employees of his or her respective agency, and may participate in Board discussions when technical information on their respective agencies is requested by the Board.

4. Other Balance Factors: N/A
5. Candidate Identification Process: The Department of the Army, as part of its process for identifying potential candidates, carefully reviewed the feasibility of developing a rotational list for ensuring balance representation among the primary users and shippers, but came to the conclusion that user/shipper proprietary information and the sheer number of primary users/shippers made such an effort impractical. Instead, the Army, with the support of the affected users/shippers, developed a process that best ensures balanced representation among the primary users and shippers. That process is:
 - a) The Army announces Board vacancies through the Federal Register whereby organizations, companies, or individuals can nominate companies (primary users/shippers) as potential Board members. The Army performs additional outreach by posting the notice as a pdf file on the Board’s public website and by announcing the request at Board meetings and to other interested parties through inland waterways associations.

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- b) The Army reviews the nominees and then uses a decision matrix to array each company and whether they meet one or more of the statutory membership requirements; the Army's decision matrix includes the incumbent members, the potential nominees, and members being reappointed for their second consecutive term.
- c) The Army eliminates from consideration any company that does not meet at least one of the statutory membership requirements or those already represented on the Board.

Based upon the number of vacancies, the Department of the Army nominates those primary commercial users and shippers that provide a broad representation of commercial users and shippers, regions, commodities, and ton-miles of cargo moved on the waterways. Primary users and shippers may be represented on the Board for a two-year term of service; however, no user or shipper, unless authorized by the Secretary of Defense, may be represented on the Board more than two consecutive terms. Terms of service will be staggered in length to ensure continuity of members such that six members (a quorum) of members persists through each appointment cycle.

Prior to the formal nomination, the list of potential organizations and their proposed individuals undergoes a review by the Office of General Counsel for the DoD and the Office of the Advisory Committee Management Officer(ACMO) to ensure compliance with Federal and DoD governance requirements, including compliance with the Board's charter and membership balance plan. Following this review, the Secretary of the Army discusses the potential organizations/individuals with the Secretary of Defense and receives authority to proceed with the organization's nomination.

The Secretary of the Army is authorized to administratively certify the appointment of the Board members that were previously approved by the Secretary of Defense. Consistent with Deputy Secretary of Defense policy and the authority delegated to the ACMO by the Assistant Deputy chief Management Officer, the ACMO is authorized to administratively certify the annual renewal of appointment of Board members.

- 6. Subcommittee Balance: The Department, when necessary and consistent with the Board's mission and DoD policies and procedures, may establish subcommittees, task groups, or working groups to support the Board. Currently the Board does not use subcommittees. If the Department determines that the establishment of subcommittees is warranted, the Board's charter and this membership balance plan must be amended prior to such establishment.
- 7. Other: As nominees are considered for appointment to the Committee, the DoD adheres to the Office of Management and Budget's Revised Guidance on Appointment of Lobbyists to Federal Advisory Committees, Boards, and Commissions (79 FR 47482; August 13, 2014) and the rules and regulations issued by the Office of Government Ethics.
- 8. Date Prepared: April 19, 2015